

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	CV420-082
)	
2310 ALABAMA AVENUE)	
SAVANNAH, GEORGIA 31404 and)	
2312 ALABAMA AVENUE)	
SAVANNAH, GEORGIA 31404,)	
)	
Defendants.)	

REPORT AND RECOMMENDATION

Before the Court is Claimant Monik Charlene Brinson’s notice of voluntary dismissal with prejudice of her claim against the defendant property. Doc. 10. Claimant purports to travel under Federal Rule of Civil Procedure 41(a)(1)(A)(i). *Id.* The notice of dismissal, however, is inappropriate, as no claims have been properly asserted.

Claimant has attempted to assert an interest in the defendant property pursuant to 18 U.S.C. 983(a)(4)(A). Doc. 6. She now seeks to voluntarily dismiss that claim pursuant to Rule 41(a)(1)(A)(i), which provides that a “*plaintiff*” may dismiss an action without a court order by filing a notice of dismissal before the opposing party serves either an

answer or a motion for summary judgment.” Fed. R. Civ. P. 41(a)(1)(A)(i) (emphasis added). Even recognizing that the Federal Rules of Civil Procedure do not perfectly map to civil forfeiture matters and adopting a flexible interpretation of the term “plaintiff,” the rule is inapplicable in the instant case. While it is true that no party has filed an answer or motion to dismiss in response to Brinson’s filing, no claim has technically been asserted. 18 U.S.C. 983(a)(4)(A) requires a party wishing to assert an interest in seized property to file a claim asserting such interest. That party may then file an answer to the Government’s complaint. 18 U.S.C. 983(a)(4)(B). Though Brinson cites to 18 U.S.C. 983(a)(4)(A), her only filing is an answer, not a claim against the property. Doc. 6.

Regardless of Brinson’s formal position in this matter, it is clear that she no longer wishes to assert any claim against the defendant property. The Government consents to Brinson’s discontinued participation. Doc. 11 (Government’s notice of acknowledgement of claimant’s voluntary dismissal and request for entry of default). Therefore, to the extent that Brinson has filed any claim against the defendant property, the Court, pursuant to its authority under Federal Rule of Civil Procedure 41(a)(2), the Court **RECOMMENDS** that the claims be **DISMISSED without**

prejudice.

This report and recommendation (R&R) is submitted to the district judge assigned to this action, pursuant to 28 U.S.C. § 636(b)(1)(B) and this Court's Local Rule 72.3. Within 14 days of service, any party may file written objections to this R&R with the Court and serve a copy on all parties. The document should be captioned "Objections to Magistrate Judge's Report and Recommendations." Any request for additional time to file objections should be filed with the Clerk for consideration by the assigned district judge.

After the objections period has ended, the Clerk shall submit this R&R together with any objections to the assigned district judge. The district judge will review the magistrate judge's findings and recommendation pursuant to 28 U.S.C. § 636(b)(1)(C). The parties are advised that failure to timely file objections will result in the waiver of rights on appeal. 11th Cir. R. 3-1; *see Symonette v. V.A. Leasing Corp.*, 648 F. App'x 787, 790 (11th Cir. 2016); *Mitchell v. United States*, 612 F. App'x 542, 545 (11th Cir. 2015).

SO REPORTED AND RECOMMENDED, this 19th day of
January, 2021.



CHRISTOPHER L. RAY
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA